



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 23, 2011

Mr. Hyattye O. Simmons
General Counsel
Dallas Area Rapid Transit
P.O. Box 660163
Dallas, Texas 75266-0163

OR2011-03985

Dear Mr. Simmons:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 412124 (DART ORR# 7912).

Dallas Area Rapid Transit ("DART") received a request for multiple categories of information related to an agreement between DART and Titan Outdoor, LLC ("Titan"), including the final copy of DART's contract with Titan and a specified letter of credit. You state you have released some of the responsive information to the requestor. We understand you take no position as to whether the submitted information is excepted under the Act.¹ You state release of this information may implicate the proprietary interests of Titan. Accordingly, you state, and provide documentation showing, you notified Titan of the request for information and of its right to submit arguments to this office as to why the submitted information should not be released. *See Gov't Code § 552.305(d); see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have reviewed the submitted information.

Initially, we note that an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See Gov't Code § 552.305(d)(2)(B)*. As of the date of this letter, this office has not received comments from Titan explaining why its submitted information should not be released. Therefore, we have no basis to conclude that Titan has a protected proprietary interest in the

¹Although you raise sections 552.101, 552.110, 552.113, and 552.131 of the Government Code, you make no arguments to support these exceptions. Therefore, we assume you have withdrawn your claim that these sections apply to the submitted information.

submitted information. *See id.* § 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Accordingly, DART may not withhold any portion of the submitted information based upon the proprietary interests of Titan. As no exceptions to disclosure are raised, the submitted information must be released.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,



Vanessa Burgess
Assistant Attorney General
Open Records Division

VB/dls

Ref: ID# 412124

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Don Allman
Chief Executive Officer/President
Titan
850 Third Avenue
New York, New York 10022
(w/o enclosures)